IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 26.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.244 of 2006

Raja @ Katturaja ... Petitioner

Vs.

1. The District Magistrate and
   District Collector
   Vellore Distirct,
   Vellore.
,
2. The Secretary to Government,
   Government of Tamil Nadu,
   Prohibition and Excise Department,
   Fort St. George, Chennai-600 009 ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the proceedings of the first respondent herein in C3.D.O.No.8/2006 dated 20.01.2006, set aside the same and direct the respondents herein to produce the body and person of the detenu by name Raja @ Katturaja, son of Raji, now confined in Central Prison, Vellore before this Court and set the petitioner at liberty.

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For Petitioner : Mr.G.Saravanan

For Respondents : Mr.M.Babu Muthu Meeran
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by V.DHANAPALAN, J.)

The petitioner by name Raja @ Kattu Raja, who was detained as a 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 20.01.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 20.01.2006 was received by the Government on 02.02.2006 and the remarks were called for on 06.02.2006. The reminder was sent on 08.02.2006. The representation of the detenu was received from the Government on 10.02.2006 and the parawar remarks were called for from the Sponsoring authority on 13.02.2006 and the remarks were received from the sponsoring authority on 16.02.2006 and the report was sent to the Government on 17.02.2006 and the remarks were received by the Government on the same day i.e. on 17.02.2006 and thereafter, the file was submitted on 20.02.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on the same day i.e. on 20.02.2006 and finally, the Minister for Prohibition and Excise passed orders on 21.02.2006. The rejection letter was prepared on 24.02.2006 and the same was sent to the detenu on 27.02.2006 and served to him on 01.03.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed order on 21.02.2006, there is no explanation at all for taking time for preparation of rejection letter till 24.02.2006. Here again, though parawar remarks were called for from the sponsoring authority on 13.02.2006, the remarks were received from the sponsoring authority by the Collectorate only on 16.02.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the two spells of delay, viz., between 21.02.2006 and 24.02.2006 as well as 13.02.2006 and 16.02.2006, is on the higher side and in the absence of proper explanation by the persons concerned, the delay has prejudiced the detenu in considering his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

raa

To

1.The Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Vellore District, Vellore.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.G.Saravanan, advocate, Sr. 27102

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